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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION TWO

JAMES RICHARD ODLE,

Petitioner,

v.

THE SUPERIOR COURT OF CONTRA  
COSTA COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

A109985

(Contra Costa County  
Super. Ct. No. 24580)

BY THE COURT:

It is ordered that the opinion filed herein on March 29, 2006, be modified as follows:

1. The second sentence of footnote 10, page 20 shall be deleted.
2. The sentence on page 5 beginning “The People did not provide the court with . . .” shall be deleted and replaced with the following sentence. “A psychological examination of Odle was not conducted.”
3. The first sentence of the first full paragraph on page 4, beginning “Twenty years later,” shall be deleted and replaced with the following sentence: “At the hearing, Winig was asked about a letter written by Dr. Blum to the prosecutor and an interview between Blum and the prosecutor.” In the immediately preceding sentence, the words “in a

declaration” shall be deleted. The sentence shall then read: “Blum described his current common practice in treating an injury such as the one Odle sustained.” In the fourth sentence of this paragraph the words “In this declaration” shall be deleted. The sentence shall then read “Blum stated that he must have been in error when, during the 1983 trial, he testified that he removed a three or four inch cube from Odle’s brain.”

4. The quotation marks around the phrase “somewhat regular intervals” in the third full paragraph of page 5, in the fifth sentence of that paragraph, shall be deleted.

5. The following two sentences shall be inserted at the conclusion of the second full paragraph of p. 7: “As for the burden of proof at a retrospective competency hearing, we reject Odle’s request that we modify our holding in *People v. Ary* (2004) 118 Cal.App.4th 1016, regarding this burden. The issue of the appropriate burden of proof, should a retrospective competency hearing be held in this matter, is not before us.”

These modifications do not effect a change in the judgment. Appellant’s petition for rehearing is denied. Presiding Justice Kline is of the opinion the petition should be granted.

Dated: 4/25/06

Haerle, J.